

FILED

UNITED STATES DISTRICT COURT

for the

DEC 08 2023

Eastern District of California



Fresno Division

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY  DEPUTY CLERK

Michelle Gomez

Case No. 1:23-cv-1696-NODJ-EPG
(to be filled in by the Clerk's Office)

Plaintiff(s)

(Write the full name of each plaintiff who is filing this complaint. If the names of all the plaintiffs cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names.)

-v-

Kathy Ciuffini

Defendant(s)

(Write the full name of each defendant who is being sued. If the names of all the defendants cannot fit in the space above, please write "see attached" in the space and attach an additional page with the full list of names. Do not include addresses here.)

Jury Trial: (check one) ☒ Yes ☐ No

COMPLAINT FOR VIOLATION OF CIVIL RIGHTS

(Non-Prisoner Complaint)

NOTICE

Federal Rules of Civil Procedure 5.2 addresses the privacy and security concerns resulting from public access to electronic court files. Under this rule, papers filed with the court should *not* contain: an individual's full social security number or full birth date; the full name of a person known to be a minor; or a complete financial account number. A filing may include *only*: the last four digits of a social security number; the year of an individual's birth; a minor's initials; and the last four digits of a financial account number.

Except as noted in this form, plaintiff need not send exhibits, affidavits, grievance or witness statements, or any other materials to the Clerk's Office with this complaint.

In order for your complaint to be filed, it must be accompanied by the filing fee or an application to proceed in forma pauperis.

I. The Parties to This Complaint**A. The Plaintiff(s)**

Provide the information below for each plaintiff named in the complaint. Attach additional pages if needed.

| | | | |
|------------------|-------------------------|--------------|-----------------|
| Name | Michelle Gomez | | |
| Address | 616 Kaiemi St. | | |
| | Kailua | HI | 96734 |
| | <i>City</i> | <i>State</i> | <i>Zip Code</i> |
| County | | | |
| Telephone Number | 808-699-0912 | | |
| E-Mail Address | michgkai@protonmail.com | | |

B. The Defendant(s)

Provide the information below for each defendant named in the complaint, whether the defendant is an individual, a government agency, an organization, or a corporation. For an individual defendant, include the person's job or title (if known) and check whether you are bringing this complaint against them in their individual capacity or official capacity, or both. Attach additional pages if needed.

Defendant No. 1

| | | | |
|----------------------------------|-------------------------|--------------|-----------------|
| Name | Kathy Ciuffini | | |
| Job or Title <i>(if known)</i> | Judge | | |
| Address | 1640 Kings County Drive | | |
| | Hanford | CA | 93230 |
| | <i>City</i> | <i>State</i> | <i>Zip Code</i> |
| County | Kings County | | |
| Telephone Number | | | |
| E-Mail Address <i>(if known)</i> | | | |

☐ Individual capacity ☒ Official capacity

Defendant No. 2

| | | | |
|----------------------------------|-------------|--------------|-----------------|
| Name | | | |
| Job or Title <i>(if known)</i> | | | |
| Address | | | |
| | | | |
| | <i>City</i> | <i>State</i> | <i>Zip Code</i> |
| County | | | |
| Telephone Number | | | |
| E-Mail Address <i>(if known)</i> | | | |

☐ Individual capacity ☐ Official capacity

Defendant No. 3

Name _____

Job or Title (if known) _____

Address _____

City

State

Zip Code

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐

Individual capacity

☐

Official capacity

Defendant No. 4

Name _____

Job or Title (if known) _____

Address _____

City

State

Zip Code

County _____

Telephone Number _____

E-Mail Address (if known) _____

☐

Individual capacity

☐

Official capacity

II. Basis for Jurisdiction

Under 42 U.S.C. § 1983, you may sue state or local officials for the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” Under *Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics*, 403 U.S. 388 (1971), you may sue federal officials for the violation of certain constitutional rights.

A. Are you bringing suit against (check all that apply):

☐Federal officials (a *Bivens* claim)☒

State or local officials (a § 1983 claim)

B. Section 1983 allows claims alleging the “deprivation of any rights, privileges, or immunities secured by the Constitution and [federal laws].” 42 U.S.C. § 1983. If you are suing under section 1983, what federal constitutional or statutory right(s) do you claim is/are being violated by state or local officials? 1st Amendment, 5th Amendment, 9th Amendment, 14th Amendment

C. Plaintiffs suing under *Bivens* may only recover for the violation of certain constitutional rights. If you are suing under *Bivens*, what constitutional right(s) do you claim is/are being violated by federal officials?

- D. Section 1983 allows defendants to be found liable only when they have acted "under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia." 42 U.S.C. § 1983. If you are suing under section 1983, explain how each defendant acted under color of state or local law. If you are suing under *Bivens*, explain how each defendant acted under color of federal law. Attach additional pages if needed.
- By violating the petitioner's due process, the defendant obstructed the submission of evidence and the admission of witness declarations intended to support the petition presented to the courts. The defendant denied the petitioner a fair and impartial hearing on the petition by not ensuring a comprehensive and equitable review. Furthermore, the defendant penalized the petitioner for exercising her beneficiary rights by imposing an excessively severe financial judgment against her.

III. Statement of Claim

State as briefly as possible the facts of your case. Describe how each defendant was personally involved in the alleged wrongful action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If more than one claim is asserted, number each claim and write a short and plain statement of each claim in a separate paragraph. Attach additional pages if needed.

- A. Where did the events giving rise to your claim(s) occur?
Superior Court of California, County of Kings
-
- B. What date and approximate time did the events giving rise to your claim(s) occur?
2022-2023
-
- C. What are the facts underlying your claim(s)? (*For example: What happened to you? Who did what? Was anyone else involved? Who else saw what happened?*)
The petitioner initiated a Conservatorship of the Person application on behalf of her mother, Tulia Gomez. Regrettably, the petition never underwent proper consideration. Despite the petitioner's earnest attempts to present evidence and witness testimonials supporting the petition, the defendant consistently denied such submissions. The petitioner voiced concerns about fraud, financial hardships, elder abuse, and medical neglect, yet these critical issues were not afforded a fair and impartial hearing. Subsequently, the petitioner, invoking her beneficiary rights, sought a comprehensive estate accounting. In response, the defendant not only neglected to compel the opposing side to produce necessary documents but also imposed a judgment against the petitioner, resulting in a substantial financial burden.
- Due to this negligence, Tulia Gomez, diagnosed with dementia, currently resides in a facility ill-equipped to provide adequate care for someone with such medical needs.

IV. Injuries

If you sustained injuries related to the events alleged above, describe your injuries and state what medical treatment, if any, you required and did or did not receive.

Mental and Emotional Duress - Pastoral Counseling
Deprivation of Civil Rights - Pastoral Guidance
Oppression - Pastoral Counseling

V. Relief

State briefly what you want the court to do for you. Make no legal arguments. Do not cite any cases or statutes. If requesting money damages, include the amounts of any actual damages and/or punitive damages claimed for the acts alleged. Explain the basis for these claims.

Monetary Damages and or Punitive Damages not to exceed \$500,000.00

Liberate me from the burdens imposed by the defendant's mistakes. Grant relief from the restriction of my mother in a facility that lacks the appropriate care for her medical condition. Revoke the unjust judgment that has inflicted financial hardships and oppression upon the petitioner. Declare the defendant responsible for the injuries and violations outlined in this petition. Additionally, provide any necessary compensation for the distress, oppression, and infringements on my person and rights caused by the defendant.

VI. Certification and Closing

Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my knowledge, information, and belief that this complaint: (1) is not being presented for an improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery; and (4) the complaint otherwise complies with the requirements of Rule 11.

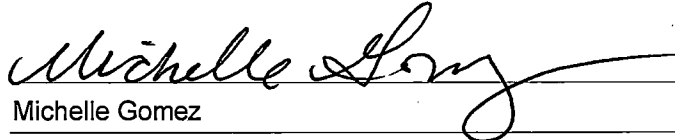
A. For Parties Without an Attorney

I agree to provide the Clerk's Office with any changes to my address where case-related papers may be served. I understand that my failure to keep a current address on file with the Clerk's Office may result in the dismissal of my case.

Date of signing: 12-5-2023

Signature of Plaintiff

Printed Name of Plaintiff


Michelle Gomez

B. For Attorneys

Date of signing: _____

Signature of Attorney

Printed Name of Attorney

Bar Number

Name of Law Firm

Address

City

State

Zip Code

Telephone Number

E-mail Address